

## AMENDMENTS

1966—Subsec. (b). Pub. L. 89-718 added "and" at the end of clause (3).

1965—Subsec. (b). Pub. L. 89-51 inserted ", and designated applicants for membership in," after "members of" in pars. (1)—(4).

## EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89-51 provided that: "The effective date of this Act [which amended subsec. (b) of this section and section 209 of Title 37, Pay and Allowances of the Uniformed Services, and enacted provisions set out as a note under section 2107 of this title] is October 13, 1964."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 37 section 209.

## § 2110. Logistical support.

(a) The Secretary of the military department concerned may issue to institutions having units of the program, or to the officers of the armed force concerned who are designated as accountable or responsible for such property—

(1) supplies, means of transportation including aircraft, arms and ammunition, and military textbooks and educational materials; and

(As amended Pub. L. 89-718, § 18, Nov. 2, 1966, 80 Stat. 1118.)

## AMENDMENTS

1966—Subsec. (a) (1). Pub. L. 89-718 substituted "educational" for "education".

## Chapter 133.—FACILITIES FOR RESERVE COMPONENTS

## § 2233. Acquisition.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2237 of this title.

## § 2237. Supervision of construction: compliance with State law.

(a) Any construction, expansion, rehabilitation, or conversion under any provision of this chapter except section 2233(a) (2), (3), and (4) of this title may be performed under the supervision of the Chief of Engineers of the Army or the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate.

(As amended Nov. 2, 1966, Pub. L. 89-718, § 19, 80 Stat. 1118.)

## AMENDMENTS

1966—Subsec. (a). Pub. L. 89-718 substituted "the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate" for "the Chief of the Bureau of Yards and Docks of the Navy".

## Chapter 135.—ENCOURAGEMENT OF AVIATION

## § 2276. Inspection and audit of plant and books of contractor; criminal provisions.

## EXEMPTION OF FUNCTIONS

Functions with respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse

## Chapter 137.—PROCUREMENT GENERALLY

## § 2304. Purchases and contracts: advertising; exceptions.

## AWARD OF CONTRACTS THROUGH FORMAL ADVERTISING AND COMPETITIVE BIDDING WHERE PRACTICABLE

Pub. L. 90-5, title III, § 304, Mar. 10, 1967, 81 Stat. 6, provided that: "The Secretary of Defense is hereby directed that insofar as practicable all contracts shall be formally advertised and awarded on a competitive bid basis to the lowest responsible bidders."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2310 of this title.

## § 2306. Kinds of contracts.

## COST-TYPE RESEARCH AND DEVELOPMENT CONTRACTS WITH EDUCATIONAL INSTITUTIONS

Pub. L. 87-638, Sept. 5, 1962, 76 Stat. 437, set out as a note under this section, is transferred to section 254a of Title 41, Public Contracts.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2310 of this title.

## § 2307. Advance payments.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2310 of this title.

## § 2310. Determinations and decisions.

(b) Each determination or decision under clauses (11)—(16) of section 2304(a), section 2306(c), section 2307(c), or section 2313(c) of this title and a decision to negotiate contracts under clauses (2), (7), (8), (10), (12), or for property or supplies under clause (11) of section 2304(a), shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that (1) are clearly illustrative of the conditions described in clauses (11)—(16) of section 2304(a), (2) clearly indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract kind or quality required except under such a contract, (3) clearly indicate why advance payments under section 2307(c) would be in the public interest, (4) clearly indicate why the application of section 2313(b) to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest, or (5) clearly and convincingly establish with respect to the use of clauses (2), (7), (8), (10), (12), and for property or supplies under clause (11) of section 2304(a), that formal advertising would not have been feasible and practicable. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies. (As amended Sept. 27, 1966, Pub. L. 89-607, § 1(1), 80 Stat. 850.)

## AMENDMENTS

1966—Subsec. (b). Pub. L. 89-607 included reference to section 2313(c), added clause (4) and redesignated former clause (4) as (5).

## § 2313. Examination of books and records of contractor.

(b) Except as provided in subsection (c), each contract negotiated under this chapter shall provide

that the Comptroller General and his representatives are entitled, until the expiration of three years after final payment, to examine any books, documents, papers, or records of the contractor, or any of his subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

(c) Subsection (b) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency determines, with the concurrence of the Comptroller General or his designee, that the application of that subsection to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

(1) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination; and

(2) where the head of the agency determines, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served by not applying subsection (b).

If subsection (b) is not applied to a contract or subcontract based on a determination under clause (2), a written report shall be furnished to the Congress. (As amended Sept. 27, 1966, Pub. L. 89-607, § 1(2), 80 Stat. 850.)

#### AMENDMENTS

1966—Subsec. (b). Pub. L. 89-607, § 1(2) (A), inserted the introductory words "Except as provided in subsection (c)".

Subsec. (c). Pub. L. 89-607, § 1(2) (B), added subsec. (c).

#### EXEMPTIONS OF FUNCTIONS

Functions with respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2310 of this title.

### Chapter 139.—RESEARCH AND DEVELOPMENT

§ 2353. Contracts: acquisition, construction, or furnishing of test facilities and equipment.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 241, 3253.

§ 2354. Contracts: indemnification provisions.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 241.

### Chapter 141.—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.

2389. Contracts for the procurement of milk; price adjustment.

#### AMENDMENTS

1966—Pub. L. 89-696, § 1(2), Oct. 19, 1966, 80 Stat. 1057, added item 2389.

§ 2389. Contracts for the procurement of milk; price adjustment.

Under regulations prescribed by the Secretary of Defense, any contract for the procurement of fluid milk for beverage purposes which was being per-

formed on or after March 1, 1966, may be amended to provide a price adjustment for losses incurred by a contractor because of increased prices paid to the producers for such milk as a result of action by the Secretary of Agriculture on or after March 1, 1966, increasing the price of milk. A price adjustment shall not be made unless it has been determined by the Department that—

(1) such amount is not included in the contract price;

(2) the contract does not otherwise contain a provision providing for an adjustment in price; and

(3) the contractor will suffer a loss, not merely a diminution of anticipated profit, under the contract because of such increases in producer prices.

(Added Pub. L. 89-696, § 1(1), Oct. 19, 1966, 80 Stat. 1056.)

### Chapter 153.—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

§ 2575. Disposition of unclaimed property.

(a) The Secretary of any military department, and the Secretary of the Treasury, under such regulations as they may respectively prescribe, may each by public or private sale or otherwise, dispose of all lost, abandoned, or unclaimed personal property that comes into the custody or control of his department, other than property subject to section 4712, 4713, 6522, 9712, or 9713 of this title or subject to subsection (c) of this section. However, property may not be disposed of until diligent effort has been made to find the owner, his heirs or next of kin, or his legal representative. If the owner, his heirs or next of kin, or his legal representative is determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at his last known address. When diligent effort to determine the owner, his heirs or next of kin, or his legal representatives is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of \$25 or more the property may not be disposed of until three months after the date it is received at a storage point designated by the Secretary.

(As amended Aug. 28, 1965, Pub. L. 89-143, 79 Stat. 581.)

#### AMENDMENTS

1965—Subsec. (a). Pub. L. 89-143 provided for notice by registered mail and substituted provision for disposition of property without delay when diligent effort to determine ownership is unsuccessful and after three months following receipt at designated storage point of property with fair market value of \$25 or more, for former provision for disposition of property one year after receipt at designated storage point.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5564 and in title 37 section 554.